

Mika PARTAIN et al., S.N. 09/760,864  
Page 10

Dkt. No. 2271/63926

**REMARKS**

The application has been reviewed in light of the Office Action dated April 27, 2007. Claims 23-40, 42 and 43 were pending in this application. By this Amendment, claim 23 has been amended to clarify the claimed subject matter, and new claim 44 has been added. Support for new claim 44 can be found in the specification at, for example, page 3, lines 12-15. Accordingly, claims 23-40 and 42-44 are now pending, with claims 23, 24, 30, 36, 42 and 43 in independent form.

Claims 23-40, 42 and 43 were rejected under 35 U.S.C. §102(e) as allegedly anticipated by U.S. Patent 7,124,099 to Mesaros.

Applicants have carefully considered the Examiner's comments and the cited art, and respectfully submit that independent claims 23, 24, 30, 36, 42 and 43 are patentable over the cited art, for at least the following reasons.

This application relates to improved techniques devised by Applicants for enhancing product sales in Internet transactions by offering promotions functionally related to an initial order the customer places, in order to induce the customer to increase the order or place an additional order. Unlike the cited art, the claimed invention of this application provides for comparing the quantity of an initial product order to a minimum quantity, and displaying information regarding a selected promotion, that is functionally related to the initial product order and is contingent on a revision of the order to make an additional purchase, if the specified quantity of the initial order is equal to or greater than the minimum quantity. Further, no promotion information is displayed if the specified quantity of the initial order is less than the minimum quantity, in which case the initial product order is processed. Each of independent

Mika PARTAIN et al., S.N. 09/760,864  
Page 11

Dkt. No. 2271/63926

claims 23, 24, 30, 36, 42 and 43 of the present application addresses these features, as well as additional features.

Anticipation under 35 U.S.C. §102 requires that the cited reference disclose each and every element of the claimed invention exactly. Applicants maintain that Mesaros cannot anticipate the claimed invention since it fails to disclose each and every element of the claimed invention exactly.

Mesaros, as understood by Applicants, proposes an electronic forum (also referred to as a "deal room") wherein a seller establishes a price structure which provides discounted prices based on the total quantity collectively ordered by multiple buyers. Information in this pricing structure, including an offer price corresponding to the total quantity collectively ordered thus far in the open session, is displayed in the deal room and can be viewed by all registered buyers. Based on the total quantity collectively ordered by the end of the open session, the final price to all buyers is the lowest price provided from the price structure regardless of whether the lowest price had been reached at the time a particular buyer placed their order.

The Examiner cited element 184 in Figure 4 of Mesaros as allegedly disclosing comparison of the quantity of an initial order to a minimum quantity. The Examiner further cites Mesaros, Figure 13, as allegedly disclosing displaying information regarding a selected promotion that is functionally related to the initial product order and is contingent on a revision of the order to make an additional purchase, if the initial order is equal or greater than the minimum quantity.

Applicants respectfully disagree.

Element 184 in Figure 4 of Mesaros is a minimum order quantity, that is, as discussed in Mesaros, column 11, lines 15-24, it is an order quantity that a buyer must place before his order

Mika PARTAIN et al., S.N. 09/760,864  
Page 12

Dkt. No. 2271/63926

is accepted and added to the total quantity collectively ordered by all buyers. In Mesaros, comparison of order quantity to minimum order quantity 184 merely decides whether the order will be accepted.

The displaying of a pricing schedule in Figures 4 and 13 is not contingent on the specified quantity of the initial product order being equal to or greater than minimum quantity 184. The pricing schedule in Figure 13 is a desired pricing scheme submitted by a seller as part of the process of setting up a deal room. The pricing schedule in Figure 4 is displayed to all registered buyers throughout the open session period and is not contingent on the placement of any orders from any buyer.

In Figure 4 of Mesaros, entry 188 indicates the current offer price corresponding to the total products collectively ordered by all buyers thus far, as determined by pricing schedule 186. This price is not the promotion information as specified in the present application.

First, the current offer price in entry 188 is not functionally related to the initial product order of any single buyer. Instead, it corresponds to the total quantity collectively ordered by all buyers thus far in the open session period.

Second, the current price offered in entry 188 is not contingent on the revision of an initial order to make an additional purchase. It is simply the price offered to all registered buyers (including buyers who have not placed any orders) based on the total quantity collectively ordered by all buyers thus far. The deal room information shown in Figure 4 is displayed to any buyer before the buyer has placed an order.

A lower price than the current offer price is also not contingent on the revision of an initial order to make an additional purchase. As described in Mesaros, an order placed by any single buyer does not necessarily lower the offer price. At the time of placing an order (or an

Mika PARTAIN et al., S.N. 09/760,864  
Page 13

Dkt. No. 2271/63926

additional order), a buyer is only guaranteed not to pay an amount greater than the corresponding price from the price structure for the total products purchased thus far. Thus, the discounting of the price offered to all buyers is not based on the quantity of any single purchase, but is instead based on the total quantity collectively ordered by all buyers.

Moreover, Mesaros does not even teach or suggest a promotion can be offered to induce revision of an initial product order to make an additional purchase. In Mesaros, when an order quantity meets or exceeds a minimum quantity 184, the order quantity is simply stored in the deal room database, and the total quantity collectively ordered by all buyers is updated accordingly to include this latest order. Presumably, buyers who have already placed orders can place additional orders in an attempt to lower the offer price, but this is not a revision of an initial order.

Mesaros simply does not teach or suggest (i) comparing the quantity of an initial order to a minimum quantity, and (ii) if the quantity of the initial order is equal to or greater than the minimum quantity, displaying information regarding a selected promotion which is functionally related to the initial product order and is contingent on a revision of the order to make an additional purchase, and (iii) if the quantity of the initial order is less than the minimum quantity, processing the initial order and displaying no promotion information.

Accordingly, for at least the above-stated reasons, Applicants respectfully submit that independent claims 23, 24, 30, 36, 42 and 43, and the claims depending therefrom, are patentable over the cited art.

For the reasons set forth hereinabove, Applicants submit that the application is now in condition for allowance, and earnestly solicits the allowance of the application.


Mika PARTAIN et al., S.N. 09/760,864  
Page 14

Dkt. No. 2271/63926

If a petition for an extension of time is required to make this response timely, this paper should be considered to be such a petition. The Patent Office is hereby authorized to charge any fees that may be required in connection with this response and to credit any overpayment to our Deposit Account No. 03-3125.

If a telephone interview could advance the prosecution of this application, the Examiner is respectfully requested to call the undersigned attorney.

Respectfully submitted,

  
Paul Teng, Reg. No. 40,837  
Attorney for Applicants  
Cooper & Dunham LLP  
Tel.: (212) 278-0400